

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH LODUCA, :
:
Plaintiff, :
: v. : 4:22-CV-166
: (JUDGE MARIANI)
JOEL ZIMMERMAN, et al., :
:
Defendants. :
:

ORDER

AND NOW, THIS 9th DAY OF FEBRUARY 2023, upon *de novo* review of

Magistrate Judge William Arbuckle's Report and Recommendation ("R&R") (Doc. 22),
Plaintiff's Objections thereto (Doc. 27),¹ and all other documents of record, **IT IS HEREBY**

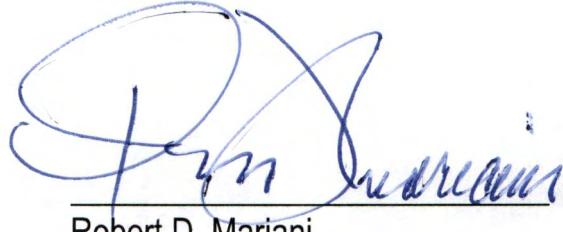
ORDERED THAT:

1. The R&R (Doc. 22) is **ADOPTED** for the reasons set forth therein.
2. Plaintiff's Objections (Doc. 27) are **OVERRULED**.²

¹ On November 28, 2022, Plaintiff filed a "Motion for Reconsideration" (Doc. 27) under the mistaken understanding that the R&R consisted of a final decision by the undersigned. Liberally construing Plaintiff's filing, and because his Motion requests reconsideration of "the order dated Oct. 18, 2022" (the date of the issuance of the R&R), the Court deems Plaintiff's Motion for Reconsideration to be Objections to the R&R.

² Plaintiff's Objections set forth a number of alleged constitutional violations by certain defendants. However, the Objections do not dispute that he is bringing his federal claim under RICO and fail to set forth any basis for this Court to find that this claim is not barred by *Heck v. Humphrey* for the reasons stated in the R&R. Finally, because this Court finds that Plaintiff has not properly stated any claim under federal law, to the extent that Plaintiff is asserting any state law claims, however unclearly, the Court declines to exercise supplemental jurisdiction.

3. Plaintiff's Complaint (Doc. 1) is **DISMISSED** without leave to amend pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) as frivolous and for failure to state a claim upon which relief can be granted. The dismissal is without prejudice to Plaintiff filing a federal RICO claim should his conviction be overturned or to his filing of any state law claims in state court.



Robert D. Mariani
United States District Judge